

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. HECTOR DURAN ALDACO,
2. DAMIAN PINA-RAYMUNDO,
3. DANIEL MORENO,
4. ROGELIO PENA,
5. DAVID PADILLA,
6. ALEX ORTIZ,
7. NELDIN LICONA RIVERA,
8. ALEXANDER KEMP,
9. BRYAN GONZALEZ GUTIERREZ, and
10. SEBASTIAN ROJAS,

Defendants.

NO. CR24-079 KKE

STIPULATED PROTECTIVE ORDER

This matter, having come to the Court's attention on the parties' stipulated motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby GRANTS the motion (Dkt. No. 110) and enters the following PROTECTIVE ORDER:

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1 **1. Protected Material.** For purposes of this Order, “Protected Materials” shall
 2 include sensitive materials that disclose personal identifying information (“PII”)¹ obtained
 3 during the investigation, including but not limited to personal information about witnesses,
 4 victims, and third parties, and other sensitive information obtained during the investigation
 5 (collectively, the “Protected Material”). Any produced Grand Jury transcripts will be
 6 considered Protected Material without further designation by the government. Other
 7 information believed by the government to be Protected Material will be so designated by
 8 the government. Said material may include, but is not limited to, *Giglio* impeachment
 9 materials.

10 **2. Production of Protected Material to the Defense.** The United States will
 11 make available copies of the Protected Materials, including those filed under seal, to
 12 defense counsel to comply with the government’s discovery obligations. Possession of
 13 copies of the Protected Materials is limited to attorneys of record and investigators,
 14 paralegals, law clerks, experts, and assistants for the attorneys of record (hereinafter
 15 collectively referred to as “members of the defense team”). Further, the attorneys of record
 16 are required, prior to disseminating any copies of the Protected Materials to members of
 17 the defense team, to provide a copy of this Protective Order to members of the defense
 18 team and obtain their agreement to be bound by the terms and conditions of this Protective
 19 Order.

20 **3. Review of Protected Material by a Defendant.** The attorneys of record
 21 and members of a Defendant’s defense team may share and review the Protected Material
 22 with a Defendant. When a Defendant resides at the Federal Detention Center (FDC), they
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24 ¹ “PII” includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes
 25 full names, dates of birth, Social Security numbers (or other identification information), financial account information
 26 (including account numbers), tax information, driver’s license numbers, addresses, telephone numbers, locations of
 27 residences or employment, medical records, school records, juvenile criminal records, and other confidential
 information. The government has endeavored to redact PII as appropriate, but the parties acknowledge and agree that
 this will not always be possible, and that in some instances un-redacted PII may be necessary to the defense.

1 will be permitted to review the Protected Material, consistent with the regulations
2 established by the BOP for such material, with or without his counsel in a controlled
3 environment at the FDC, but will be prohibited from printing out, copying, or
4 disseminating the material. If a Defendant is on pretrial release, they will be permitted to
5 review the Protected Material at the office of his counsel, or via a video conference call,
6 but will be prohibited from printing out, copying, or disseminating the material.

7 **4. Limits on Dissemination of Protected Materials.** The attorneys of record
8 and members of the defense team acknowledge that providing copies of the Protected
9 Material to a Defendant and other persons is prohibited and agree not to duplicate or
10 provide copies of the Protected Material to Defendant and other persons. This order does
11 not limit employees of the United States Attorney's Office for the Western District of
12 Washington from disclosing the Protected Material to members of the United States
13 Attorney's Office, federal law enforcement agencies, witnesses, and the Court. Nor does
14 this order limit employees of the United States Attorney's Office for the Western District
15 of Washington from disclosing the Protected Material to defense counsel as necessary to
16 comply with the government's discovery obligations.

17 **5. Future Production of Additional Protected Materials.** Additional types
18 of discovery items may be deemed by the parties to constitute Protected Material upon
19 agreement, or (if no agreement can be reached) by further order of the Court.

20 **6. No Waiver.** Nothing in this order should be construed as imposing any
21 substantive discovery obligations on the government that are different from those imposed
22 by case law and Rule 16 of the Federal Rules of Criminal Procedure. The failure to
23 designate any materials as provided in paragraph 2 shall not constitute a waiver of a party's
24 assertion that the materials are covered by this Protective Order.

25 **7. Use of Protected Material in Court.** Any Protected Material that is filed
26 with the Court in connection with pre-trial motions, trial, or other matter before this Court,
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1 shall be filed under seal and shall remain sealed until otherwise ordered by this Court. This
2 does not entitle either party to seal their filings as a matter of course. The parties are
3 required to comply in all respects with the relevant local and federal rules of criminal
4 procedure pertaining to the sealing of court documents.

5 8. **Non-Termination.** The provisions of this Order shall not terminate at the
6 conclusion of this prosecution. Furthermore, at the close of this case, defense counsel shall
7 return the Protected Material, including all copies of the Protected Material, to the office
8 of the United States Attorney, or otherwise certify that the material has been destroyed.

9 9. **Violation of Order.** Any person who willfully violates this order may be
10 held in contempt of court and may be subject to monetary or other sanctions as deemed
11 appropriate by this Court.

12 10. **Modification of Order.** Nothing in this Protective Order shall prevent any
13 party from seeking modification of this Order or from objecting to discovery that it believes
14 to be otherwise improper. The parties agree that in the event that compliance with this
15 Order makes it difficult for defense counsel to adhere to their Sixth Amendment
16 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel shall
17 bring any concerns about the terms of the Order to the attention of the government. The
18 parties shall then meet and confer with the intention of finding a mutually acceptable
19 solution. In the event that the parties cannot reach such a solution, defense counsel shall
20 have the right to bring any concerns about the scope or terms of the Order to the attention
21 of the Court by way of a motion.

22 11. **Agreement to Provide Copies of Protected Material to Defendant.** Upon
23 agreement of counsel for the government, members of a defense team may provide copies
24 of specific Protected Material, or redacted versions of such material, to a Defendant. When
25 seeking the government's agreement to give such a copy to a Defendant, members of the
26 defense team will identify with reasonable particularity, including (where available) the
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1 specific bates numbered pages and or recording descriptions, the specific material defense
2 counsel proposes to give to a Defendant. Unless expressly stated otherwise by the
3 government, copies of Protected Material to be provided to a Defendant will continue to
4 be Protected Material subject to all of the protections of the Court's Order, with the sole
5 exception that a copy can be given only to a Defendant (and not shared with anyone else
6 outside the defense team). If counsel for the government and counsel for a Defendant
7 cannot reach agreement on whether particular portions of the Protected Material or
8 redacted versions of Protected Material should be given to a Defendant under these
9 conditions, defense counsel may raise the issue with the Court by way of a motion.

10 12. **No Ruling on Discoverability or Admissibility.** This Protective Order does
11 not constitute a ruling on the question of whether any particular material is properly
12 discoverable or admissible and does not constitute any ruling on any potential objection to
13 the discoverability of any material.

14 13. **No Ruling on Timing of Production.** This Protective Order does not
15 require the government to provide particular discovery at a time or in a fashion inconsistent
16 with applicable law.

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1 The Clerk of the Court is directed to provide a filed copy of this Protective Order to
2 all counsel of record.

3 DATED this 24th day of June, 2024.
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7 Kymberly K. Evanson
8 United States District Judge
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